



BARRY I. SLOTNICK
Partner

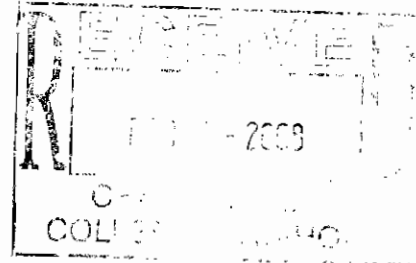
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Via Fax

February 1, 2008

MEMO ENDORSED



Honorable Colleen McMahon
United States Courthouse
500 Pearl Street Room 640
New York, New York 10007

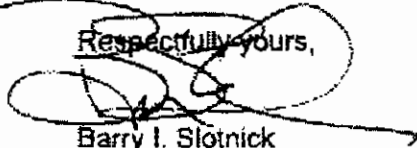
Re: Shaw Family Archives, Ltd., et al. v. CMG Worldwide, Inc., et al., Case No. 05 Civ. 3939 (CM)

Dear Judge McMahon:

We represent Defendant Marilyn Monroe LLC ("MMLLC") and write to respectfully ask permission to cross-move for summary judgment on Defendants' claim for a declaration that a significant number of Plaintiffs' photographs of Marilyn Monroe are in the public domain. If the Court grants Defendants' request, they would serve their cross-motion for summary judgment on the public domain claim on February 8, 2008, simultaneously with their opposition to Plaintiffs' pending motion for summary judgment dismissing that claim.

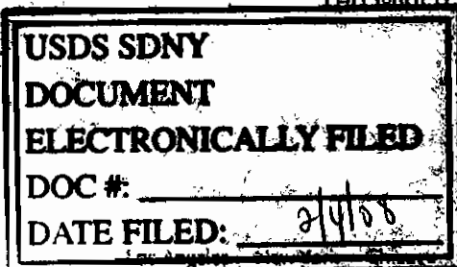
Defendants seek permission to cross-move for summary judgment at this time because preparing the pre-trial order has made clear that discovery, which only recently closed, has unearthed no evidence that could possibly create a dispute of material fact as to whether certain of Plaintiffs' photographs are in the public domain. Moreover, the issue of whether the subject photographs are in the public domain is a matter of utmost importance. Plaintiffs currently claim ownership to the subject photographs, license the subject photographs, and are using their claim of copyright ownership of all the photographs of Sam Shaw to assert exclusivity in the licensing of images of Marilyn Monroe. A decision on Defendants proposed cross-motion for summary judgment would clarify the parties' respective rights to the photographs at issue.

Respectfully yours,


Barry I. Slotnick
Partner

Cc (via email): Christopher Serbagi, Esq.
David Marcus, Esq.
Ted Minch, Esq.

Nothing in the federal rules requires my permission for a cross motion so nothing in my rules does either
Colleen McMahon
2/4/08



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